



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 28, 1995

Mr. G. Mike Davis
State Fire Marshal
Texas Commission on Fire Protection
P.O. Box 2286
Austin, Texas 78768-2286

OR95-243

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32070.

The Texas Commission on Fire Protection (the "commission") received an open records request for certain information related to a house fire in Webb County, Texas. The requestor has asked for the fire marshal's investigation report and "copies of any and all of the following items, such as photographs, statements, diagrams, and measurements made of the dwelling" You inform us that the commission has made some of the information available to the requestor, but argue that the remaining information should be withheld pursuant to section 552.108 of the Government Code.

Section 552.108 excepts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of a crime
....

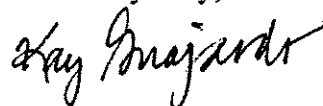
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution

Gov't Code § 552.108. In the event of open criminal investigations, section 552.108 exempts from disclosure all information except that usually found on the first page of the offense report. See generally *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Once a case is closed, however, a governmental body claiming section 552.108 must explain how release of the information would "unduly interfere with law enforcement or crime prevention," unless the information on its face supplies this explanation. See *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986). Whether particular information may be withheld under section 552.108 must be determined on a case-by-case basis. Attorney General Opinion MW-381 (1981) at 4.

You inform us that the requested information relates to a pending investigation conducted by the Office of the State Fire Marshal. We have examined the information and conclude that it may be withheld under section 552.108 of the Government Code, except to that extent that it contains first page offense report material. See Open Records Decision No. 134 (1976) (concluding that § 552.108 excepts portions of State Fire Marshal's arson investigation).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/DABU/rho

Ref: ID# 32070

Enclosures: Submitted documents

cc: Mr. Charlie Johnson
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(w/o enclosures)